HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 2855 of 2007

DATED: 15-02-2007

Between:

Dhanoosh Economically Poor People Seva Samithi, Vasantharayapuram, Guntur, rep. by its President G.Prabhakar Rao

…Petitioner

and

The General Manager,
South Central Railway,
Rai Nilayam,
Secunderabad and others

…Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 2855 of 2007

ORAL ORDER:

The writ petition is misconceived.

The petitioner, on 13-12-006, pursuant to an invitation to tender, was granted a five-year licence for maintenance of the Pay and Use Toilets at Secunderabad Station. The contract period is to commence from 14-12-2006. Certain conditionalities as per the terms of the award letter 13-12-2006, were to be fulfilled. The petitioner failed to do so. A notice dated 2-1-2007 was issued to the petitioner by the respondents to comply with the commercial formalities within the stipulated time. The petitioner sought some time, but did not comply with the conditions even within the time sought. Thereafter, by an order dated 1-2-2007, the contract awarded by the letter dated 13-12-2006 was cancelled. The respondents on 8-1-2007, have again invited sealed tenders for maintenance of Pay and Use Toilets at several stations including at Secunderabad Railway Station. It is this notification that is assailed in this writ petition.

In the light of the chronology of events narrated, no case is made out for interference with the impugned tender notification. With regard to the cancellation of the contract, as the petitioner has failed to fulfill the terms of the contract, the 3rd respondent has cancelled the contract. Such cancellation ought not to be the subject matter of adjudication under Article 226 of the Constitution. Should the petitioner be aggrieved, he is at liberty to pursue his remedies before

an arbitral forum, if there be an arbitral clause, or before the Civil Court of competent jurisdiction, as the disputes leading to cancellation of the contract are post threshold disputes with respect to a non-statutory agreement between the parties.

The writ petition is dismissed. There shall be no order as to costs.

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GODA RAGHURAM, J

15-02-2007
GRR